

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA ,

Plaintiff,

v.

JEREMY MCCARNS,

Defendant.

)
)
)
)
)
)
)
)
)
)

NO. 07-CR-30057-WDS

MEMORANDUM AND ORDER

STIEHL, District Judge:

Before the Court is defendant's pro se motion seeking retroactive application of the sentencing guidelines to crack cocaine offenses (Doc. 103). The Court appointed Assistant Federal Defender Dan Cronin to represent the defendant. The Probation Officer has determined, and appointed counsel concurs, that the defendant is not eligible for a reduction in sentence because the amount of drugs involved, 309.2 grams of crack cocaine and 20 kilograms of cocaine hydrochloride results in a base offense level of 34, even after his reduction for acceptance of responsibility (Doc. 110), and therefore, there is no change in the guideline computations for his case and he is not entitled to the relief he seeks.

A review of the record, and application of §3582 reveals that the defendant was sentenced at a base offense level of 31 with a criminal history category of III, resulting in a guideline range of 135-180 months with a mandatory minimum of 120 months. Pursuant to a rule 35 motion, the Court reduced the defendant's sentence to 90 months (*See*, Order at Doc. 97). The amendments to the advisory guidelines would not, given the amount of controlled substance involved, result in a lower guidelines range than that which he is currently serving. Therefore, the relief which the defendant

seeks is not available to him under the amendments to the advisory Sentencing Guidelines.

Accordingly, the Court **GRANTS**, the motion to withdraw (Doc. 110) and **DENIES** defendant's motion for a reduction in sentence (Doc. 103) because the defendant is not entitled to a reduction.

IT IS SO ORDERED.

DATE: 29 October, 2012

/s/ WILLIAM D. STIEHL
DISTRICT JUDGE